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AMENDED IN ASSEMBLY MAY 3, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 50

**Introduced by Assembly Members ~~Leno and Cohn~~ *Member Leno*
(~~Coauthors: Assembly Members Calderon, Bass, Berg, Chan,
Chavez, Chu, Coto, Dymally, Evans, Frommer, Goldberg,
Hancock, Jerome Horton, Jones, Karnette, Klehs, Koretz,
Laird, Levine, Lieber, Liu, Matthews, Montanez, Mullin, Nava,
Negrete, McLeod, Nunez, Oropeza, Parra, Pavley,
Ridley-Thomas, Ruskin, Saldana, Salinas, Torrico, Umberg,
and Wolk~~)**

December 6, 2004

An act to ~~amend Sections 209, 220, 269, 272, 288, 311.2, 311.4,
311.9, 311.11, 626.8, 667.1, 667.5, 667.51, 667.6, 667.61, 667.71,
1170.125, 1203.06, 1203.065, 1203.075, 3000, 3001, 3003, 3005, and
12022.75 of, to add Sections 626.75, 3006, 3010.05, 3072, and
13887.5 to, the Penal Code, to amend Sections 6604, 6604.1, and
6605 of, and to repeal Section 6608 of, the Welfare and Institutions
Code, relating to crimes: *add Chapter 6 (commencing with Section*~~

13974.5) to Part 4 of Division 3 of Title 2 of the Government Code, relating to victims of crime, making an appropriation therefor, and declaring the urgency thereof to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 50, as amended, Leno. ~~Sex offenders.~~ *Victim compensation: trauma services.*

Statutory provisions that were repealed as of January 1, 2005, authorized the California Victim Compensation and Government Claims Board to enter into an interagency agreement with the University of California, San Francisco, to establish a victims of crime recovery center at the San Francisco General Hospital to demonstrate the effectiveness of providing comprehensive and integrated services to victims of crime.

This bill would make legislative findings about the effectiveness of the services provided by the Trauma Recovery Center established as a pilot project under these provisions. It would reauthorize this interagency agreement for the purpose of actually providing these services not just in a demonstration capacity. It would appropriate for this purpose \$1.3 million from the Restitution Fund to the board for the 2006–07 fiscal year.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Under existing law, the punishment for a person who kidnaps an individual in order to commit robbery, rape, oral copulation, sodomy, or sexual penetration is imprisonment for life with the possibility of parole.~~

~~This bill would add kidnapping in order to commit lewd and lascivious acts to that provision.~~

~~Under existing law, every person who commits an assault with the intent to commit a specified crime is punishable by imprisonment in the state prison for 2, 4, or 6 years.~~

~~This bill would subject a person who commits an assault with the intent to commit a specified crime while committing a first degree burglary to imprisonment in the state prison for life with the possibility of parole.~~

~~Under existing law, any person who commits a specified act upon a child who is under 14 years of age and 10 or more years younger than~~

~~the person is punishable by imprisonment in the state prison for 15 years to life.~~

~~This bill would change the requisite age difference between the person and the child from 10 years to 7 years. This bill would clarify the specified acts the commission of which would trigger the punishment. This bill would also impose consecutive sentences for multiple offenses if the offenses involved separate victims or the same victim on separate occasions, as specified.~~

~~Under existing law, an adult who knowingly contacts or communicates with a minor who is 14 years of age or younger for the purpose of persuading, luring or transporting the minor away from the minor's home or other location without the express consent of the minor's parent or legal guardian is guilty of an infraction or misdemeanor.~~

~~This bill would, instead, make it a misdemeanor to contact or communicate with a minor who is 14 years of age or younger with the intent to commit certain specified crimes involving the minor, and would increase the punishment for that crime to a misdemeanor or felony if the person has a previous conviction for certain sex offenses.~~

~~Under existing law, the punishment for lewd and lascivious acts with a minor or upon a dependent person by a caretaker by force, violence, duress, menace or fear, is 3, 6, or 8 years.~~

~~This bill would increase that punishment to 3, 6, or 10 years.~~

~~Under existing law, a person who possesses, prepares, publishes, produces, develops, duplicates, or prints any data or image with the intent to distribute, exhibit, or exchange the data or image with a person 18 years of age or older, knowing the data or image depicts a person under 18 years of age personally engaging in or personally simulating sexual conduct is guilty of a misdemeanor.~~

~~This bill would increase the punishment for that crime to a misdemeanor or felony.~~

~~Under existing law, a person who uses a minor to assist in the distribution of child pornography is guilty of a misdemeanor upon a first offense.~~

~~This bill would increase the punishment for the first conviction of that crime to a misdemeanor or felony.~~

~~Under existing law, the first conviction for possession of child pornography is punished as a misdemeanor.~~

~~This bill would make the punishment for a first conviction either a misdemeanor or a felony.~~

~~Under existing law, a person who enters school grounds or remains upon any public way adjacent to a school who does not have lawful business at the school and whose presence disrupts the school or pupils therein, is guilty of a misdemeanor if he or she has previously been asked to leave the school or otherwise has established a pattern of unauthorized activity, is guilty of a misdemeanor.~~

~~This bill would make it a misdemeanor for any person who is required to register as a sex offender who has been convicted of specified sex offenses from being present on any school property, or street, sidewalk, or public walkway adjacent to any school property, as specified.~~

~~This bill would also make it a misdemeanor for any person convicted of committing lewd or lascivious acts upon a child, continuous sexual abuse of a child, or aggravated sexual assault of a child to be present on any school property, or street, sidewalk, or public walkway adjacent to any school property, as specified.~~

~~Existing law, added by initiate acts that require amendments to its provisions to be approved by $\frac{2}{3}$ of the membership of both houses of the Legislature, defines “violent felony” for purposes of various provisions of the Penal Code.~~

~~This bill would clarify which offenses fall into the definition of a violent felony.~~

~~Existing law provides for an enhanced prison term of 5 years for a person convicted of committing any of several specified sex offenses if the person has a prior conviction for any several other specified sex offense. The enhanced term for a person with 2 or more previous convictions of any of the other specified sex offenses is either 10 years or 15 years to life. The enhanced term does not apply if that person has not been in custody for, or committed a felony during, at least 10 years between the instant and prior offense. Existing law requires the person to receive credits for time served or worked, to reduce his or her sentence.~~

~~This bill would expand the types of sex crimes to which these provisions apply, delete the 10-year exception, and would eliminate the possibility of the person receiving credit to reduce his or her sentence.~~

~~Under existing law, persons who are convicted of committing certain sex offenses who have previously been convicted of other sex offenses, including habitual sexual offenders, as defined, or who are~~

~~convicted of certain sex offenses during the commission of another offense, are eligible for credit to reduce the minimum term imposed.~~

~~This bill would eliminate that eligibility for those persons.~~

~~Under existing law, the punishment for a conviction of certain sex offenses is 25 years to life if the offense was committed in the course of a kidnapping or burglary, the victim was tortured, or the defendant had previously been convicted of one of the specified sex offenses.~~

~~This bill would add continuous sexual abuse of a child to those sex offenses.~~

~~Under existing law, the court has the authority to order an action dismissed or to strike a prior conviction for purposes of sentencing a defendant.~~

~~This bill would prohibit a court from striking an allegation, admission, or finding of a prior conviction for, and would prohibit granting probation to, or suspending the execution or imposition of sentence for defendants who are convicted of certain sex offenses.~~

~~Under existing law, the parole period for an inmate sentenced for committing lewd and lascivious acts on a child or continuous sexual abuse of a child is no more than 5 years.~~

~~This bill would increase the possible parole period for a person convicted of either of those crimes to 10 years, but would require the person to be discharged from parole after 6 years, except under certain circumstances.~~

~~Under existing law, the Department of Corrections and Rehabilitation is required to develop a plan, subject to the appropriation of funds therefor, for the implementation of relapse prevention treatment programs and services for high-risk sex offenders.~~

~~This bill would require the department to study the effects of this plan on the recidivism rates of those parolees, and to report to the Legislature thereon.~~

~~The bill would authorize the department to establish and operate a specialized sex offender treatment programs for inmates and parolees whom the department deems pose a high risk to the public of committing violent sex crimes.~~

~~This bill would declare legislative intent to create a period of parole for offenders found to be sexually violent predators after those offenders are released from their commitment to the Department of Mental Health in order to supervise the offenders participation in ongoing treatment programs.~~

~~Existing law establishes a 5-year period of parole for inmates serving a specified life sentence.~~

~~This bill would increase the period of parole from 5 years to 10 years.~~

~~Existing law requires the Board of Parole Hearings to discharge a person from parole after the person serves a specified period of time on parole unless the board finds good cause to retain the person on parole.~~

~~This bill would require the board to discharge a person paroled from a specified life term after 6 years.~~

~~Existing law authorizes the Department of Corrections and Rehabilitation to use Global Positioning Systems to monitor certain parolees.~~

~~This bill would appropriate \$8,000,000 from the General Fund to the Department of Corrections and Rehabilitation for the purchase of global positioning systems to monitor parolees who were convicted of violent or sexual offenses and are deemed to be at high risk to reoffend.~~

~~Existing law provides for an enhanced penalty of 3 years for any person who administers a controlled substance to another person against his or her will, for the purpose of committing a felony.~~

~~This bill would create an additional enhancement of 5 years if that felony is any of several specified sex offenses.~~

~~Existing law authorizes counties to establish Sexual Assault Felony Enforcement (SAFE) teams to reduce violent sexual assaults through proactive surveillance of habitual offenders.~~

~~This bill would appropriate \$15,000,000 from the General Fund for the funding of SAFE teams, as specified.~~

~~Under existing law, if a person is determined to be a sexually violent predator, he or she is committed to the State Department of Mental Health for 2 years for appropriate treatment and confinement. Confinement may not be extended except by court order.~~

~~This bill would change that commitment to an indeterminate term, and would require an annual report to be made about the appropriateness of conditionally releasing the person to a less restrictive environment.~~

~~Existing law establishes a procedure for a person committed as a sexually violent predator to petition a court for a conditional release or discharge.~~

~~This bill would repeal that provision and provide procedures governing when and how the person is entitled to a trial on the appropriateness of a conditional release or discharge.~~

~~Because the bill would increase penalties for some crimes and create new crimes, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*

3 (a) *Without treatment, approximately 50 percent of people*
4 *who survive a traumatic, violent injury experience psychological*
5 *or social difficulties. Untreated psychological trauma often has*
6 *severe economic consequences, including overuse of costly*
7 *medical services, loss of income, failure to return to gainful*
8 *employment, loss of medical insurance, and loss of stable*
9 *housing.*

10 (b) *The Trauma Recovery Center at San Francisco General*
11 *Hospital/University of California, San Francisco, is an*
12 *award-winning, nationally recognized program created in 2001*
13 *in partnership with the State of California Victim Compensation*
14 *and Government Claims Board. The center was established as a*
15 *four-year pilot project to develop and test a comprehensive*
16 *model of care as an alternative to fee-for-service care*
17 *reimbursed by victim restitution funds. It was designed to*
18 *increase access for crime victims to these funds.*

19 (c) *During the Trauma Recovery Center's four-year history,*
20 *its accomplishments include:*

21 (1) *Identifying and treating 854 crime victims.*

22 (2) *Increasing the rate by which sexual assault victims*
23 *received mental health followup services, from 6 percent to 71*
24 *percent.*

1 (3) Successfully linking 53 percent of patients to legal
2 services, 40 percent to vocational services, 31 percent to safer
3 and more permanent housing, and 22 percent to other financial
4 entitlements.

5 (4) Improving cooperation with police, including an increase
6 in police reports filed by sexual assault victims from 42 percent
7 to 71 percent.

8 (5) Increasing return to employment by 56 percent of victims
9 compared to victims who did not have Trauma Recovery Center
10 services. Many of these people resumed paying taxes and
11 escaped the spiral into bankruptcy, loss of housing, and loss of
12 medical insurance.

13 SEC. 2. Chapter 6 (commencing with Section 13974.5) is
14 added to Part 4 of Division 3 of Title 2 of the Government Code,
15 to read:

16
17 CHAPTER 6. VICTIMS OF CRIME RECOVERY CENTER
18

19 13974.5. (a) The California Victim Compensation and
20 Government Claims Board shall enter into an interagency
21 agreement with the University of California, San Francisco, to
22 establish a victims of crime recovery center at the San Francisco
23 General Hospital for the purpose of providing comprehensive
24 and integrated services to victims of crime, subject to conditions
25 set forth by the board.

26 (b) This section shall not apply to the University of California
27 unless the Regents of the University of California, by appropriate
28 resolution, make this section applicable.

29 (c) This section shall only be implemented to the extent that
30 funding is appropriated for that purpose.

31 SEC. 3. The sum of one million three hundred thousand
32 dollars (\$1,300,000) for the fiscal year commencing July 1, 2006,
33 is hereby appropriated from the Restitution Fund to the
34 California Victim Compensation and Government Claims Board
35 for the implementation of the interagency agreement specified in
36 Section 13974.5 of the Government Code for the purpose of
37 continued funding for the Trauma Recovery Center at the San
38 Francisco General Hospital.

39 SEC. 4. This act is an urgency statute necessary for the
40 immediate preservation of the public peace, health, or safety

1 *within the meaning of Article IV of the Constitution and shall go*
2 *into immediate effect. The facts constituting the necessity are:*
3 *In order to ensure the uninterrupted provision of vital services*
4 *to victims of trauma, it is necessary that this act take effect*
5 *immediately.*

6
7
8 **All matter omitted in this version of the bill**
9 **appears in the bill as amended in the**
10 **Senate, March 10, 2006 (JR11)**
11